LIMITATIONS ON POWER OF COURT TO DIRECT VERDICT. — In almost every jurisdiction it is stated without qualification that the court will direct a verdict for one party, when, if the jury should find for the other, a new trial would be granted. A remarkable decision recently handed down by the Supreme Court of Missouri shows the extreme result which may be reached by the logical application of this unqualified test. A so-called "magnetic healer" in suing for libel introduced many witnesses who testified that they had been cured by his treatment. On appeal it was held that the trial judge erred in refusing to direct a verdict for the defendant; that where the evidence tends to prove what the court "knows" to be an impossibility, there is no question for the jury, even though a cloud of witnesses swear to it. *Weltman* v. *Bishop*, 71 S. W. Rep. 167. Insufficiency of evidence, or lack of credibility of witnesses, is undoubtedly a proper ground upon which to grant a new trial. If the same rule is to apply to the case of directing a verdict, it becomes strictly true that before there is a right to a trial by jury the court must be convinced, taking into consideration the sufficiency of the evidence and the credibility of the witnesses, that there is presented a question upon which reasonable men may differ. See 6 HARV. L. REV. 125.

The courts seem to have drifted into their present attitude on the question of directing a verdict without realizing its contrariety to certain other principles which they have expressly or tacitly recognized at the same time. Owing to the fact that the practice of directing a verdict has succeeded the old demurrer to evidence, it has frequently been stated that in directing a verdict the truth of the evidence and of all reasonable inferences which may be drawn from it is admitted. *Schuchardt* v. *Allens*, 1 Wall. (U. S. Sup. Ct.) 359, 370; *Mynning* v. *Detroit, L. & N. R. R. Co.*, 64 Mich. 93. Furthermore it is often said that the credibility of the witnesses is entirely for the jury. *Gannon* v. *Laclede Gas Light Co.*, 145 Mo. 502. Again, in the states generally there are statutes forbidding a judge to express any opinion as to the weight of the evidence. See *Norris* v. *Clinkscales*, 47 S. C. 488. Finally, there is the recognized constitutional right to trial by jury. This constitutional safeguard is of little substantial value if the jury is not to pass upon the weight of the evidence or the credibility of the witnesses. When a new trial is granted, it may be said that there is no denial of this right, for there is another jury trial. The same, however, cannot be urged in favor of directing a verdict, unless the upper court happens to reverse the ruling of the trial court. Furthermore, though the practice of granting new trials may be supported on the ground that it existed at the time the constitutional provisions were adopted, the present practice of directing verdicts, having grown up in the last half-century, cannot be regarded as impliedly recognized by the constitutions.

Because of these objections, the courts, in one state at least, have held that a verdict cannot be directed so long as there is a "scintilla" of evidence for the jury to consider. *Cincinnati St. Ry. Co.* v. *Wright*, 54 Oh. St. 181. A more reasonable view is laid down by an early Massachusetts case to the effect that a verdict will not be directed unless the evidence is such that the court would set aside any number of verdicts based upon it. *Denny* v. *Williams*, 5 Allen 1. In Wisconsin the courts direct a verdict only when the evidence and all reasonable inferences from it, if true, would not support a verdict as a matter of law. The credibility of the witnesses is entirely for the jury. *O'Brien* v. *Chicago & N. W. R. R. Co.*, 92 Wis. 340. The most satisfactory rule, however, seems to be that adopted by the federal courts, where the discretion of the judge is not restricted by statute.

When there is doubt as to the weight of the evidence or the credibility of the witnesses, the court may express an opinion and may even go into detail, but the final decision in this respect rests with the jury. *Mt. Adams, etc., Ry. Co.* v. *Lowery*, 74 Fed. Rep. 463. In this manner, while trial by jury is preserved intact, yet the jury may be restrained within the bounds of reason. See 21 AM. L. REV. 859.

LIABILITY OF OCCUPIERS OF LAND FOR NEGLIGENCE. — It seems to be a commonly accepted opinion that a landowner is exempt, so far as acts upon his own land are concerned, from the general tort liability for damage resulting from want of care. His non-responsibility to trespassers is regarded as illustrative of his general status. On the other hand, his responsibilities to business visitors, licensees, etc., are regarded, not as applications of the fundamental principle that every man must use due care in his acts, but rather as obligations imposed upon the landowner only in exceptional cases. In their efforts to prove certain cases either within or without one of these exceptions, the courts have sometimes drawn confusing distinctions. A social guest, for example, is not entitled to the protection that is accorded to one coming on business, though the former's invitation is often the more apparent of the two, and though the business visitor may be regarded as willing to assume the greater risk. *Southcote* v. *Stanley*, 1 H. & N. 247. On the other hand, the injustice which would result in many cases from denying recovery to a trespasser has led some courts to hold that even to him the occupier of land owes a rather vaguely defined duty of care. *Cincinnati, etc., R. R. Co.* v. *Smith*, 22 Oh. St. 227. The turn-table cases are familiar instances of the conflict of opinion in this branch of the law. See *Frost* v. *Eastern R. R.*, 64 N. H. 220; *Keffe* v. *Milwaukee, etc., R. R. Co.*, 21 Minn. 207.

The length to which a court may go to fit a case to a rule was illustrated in a recent Maine decision. The plaintiff, who was waiting to enter the defendant's exhibition grounds, was injured by a bullet, owing to the defendant's negligence in the construction of a shooting gallery on the grounds. The court with great difficulty concluded that the plaintiff might be classed as a business visitor on the land, though he was not at the time on the defendant's land, but on a near-by railroad platform. *Thornton* v. *Maine State Agricultural Society*, 53 Atl. Rep. 979. The case seems to involve a confusing extension of the class of business visitors; but the result is undoubtedly correct. It is believed that the general confusion in the subject may be avoided by reversing the usual point of view, namely, that the landowner is not liable save in exceptional classes of cases, and regarding him as subject to the ordinary responsibilities for all negligent acts, with such exceptions as public policy, or the circumstances of the case may require. Thus as a matter of policy it may be necessary to the proper enjoyment of land that the owner be not compelled to keep his land in a safe condition for trespassers. Moreover, since trespassers are not ordinarily to be expected, due care under the circumstances may mean little or no care. On the other hand, since the same considerations of policy do not operate to an equal extent as against licensees and business visitors, and since their presence is more or less to be expected, the care required owing to the circumstances is greater, and accordingly the courts impose a greater responsibility. The rules of law applicable to these cases may be regarded as nothing more than